

**QUESTIONS FOR JAMES B. FALAHEE
APPOINTEE TO THE CERTIFICATE OF NEED COMMISSION**

1. Why do you want to serve on the Certificate of Need (CON) Commission?
2. Do you believe the Legislature should have a role in determining what should be regulated by the CON system?
3. There are attempts in numerous states to repeal CON statutes citing the fact that the system is antiquated and has not fulfilled its intended purpose. Do you believe that the CON system is still relevant? If not, should the CON system be repealed?
4. What evidence is there that the CON system is a benefit to Michigan?
5. Occasionally, the Legislature is asked to either introduce legislation on an issue in order to bypass the CON process or to reject standards adopted by the CON Commission. When the legislature is presented with these types of requests, how do you recommend the Legislature respond?
6. Do you think there are areas of the health care delivery system that do not need to be regulated by the CON system? [If yes, what are some specific examples of areas that do not need to be regulated?]
7. Do you think there are areas of the health care delivery system that need to be regulated by the CON system that are not currently regulated? [If yes, what are some specific examples?]
8. Do you believe that special interests hold favor with the CON system? If so, as a member of the Commission, how would you suggest providing a better balance and distribution of services to meet those groups who are not as well represented but in great need of services?
9. How difficult is it to balance the need and demand for health care services by people in the state with the growing costs to provide those services?
10. Do you feel Michigan's CON regulations are sufficient, too stringent, or too lenient?
11. If an issue comes before the CON Commission that directly pertains to your current employer, how will you handle that situation?

Responses from James B. Falahee, Jr.

1. Why do you want to serve on the Certificate of Need (CON) Commission?

I have been a regular participant in the CON process since the late 1970's. I have a strong belief that the CON Commission serves an important role in constraining unnecessary health care costs, while at the same time, promoting quality and access to services throughout the State of Michigan. As a resident of Southwest Michigan, I understand from first hand experience the importance of assuring the availability of high quality health care services to residents in rural counties.

As the country and the State of Michigan grapple with health care reform, and the potential restructuring of the health care system, I believe it is critical that the CON Commission take an active role in continuing to assure appropriate patient access to high quality health care services, while at the same time avoiding unneeded and duplicative health care costs which have been one of the major drivers of the need for health care reform.

2. Do you believe the Legislature should have a role in determining what should be regulated by the CON system?

Yes, I believe the Legislature should have a role in determining what should be regulated by the CON system. Pursuant to Part 222 of the Michigan Public Health Code, the Legislature defined the "covered clinical services" which require review by the CON Commission. In addition, the Legislature also set forth those expenditures and health care projects which require a CON. Not only did the Legislature have a substantial role in creating the CON Commission, and in determining its jurisdiction, but the Legislature also has directed the Commission to propose revisions of the covered clinical services and CON Review Standards. Lastly, any proposed final action of the CON Commission on changing the list of covered services, by statute, must be submitted to the Governor and Legislature before it becomes final action. In summary, the Legislature has had and will continue to have a major role in what the CON system regulates.

3. There are attempts in numerous states to repeal CON statutes citing the fact that the system is antiquated and has not fulfilled its intended purpose. Do you believe that the CON system is still relevant? If not, should the CON system be repealed?

Yes, I strongly believe that the CON system is still relevant. In fact, I think the CON system will become even more relevant as Michigan and the country deal with health care reform. The appropriate delivery of health care in Michigan and the United States must grapple with the continual battle between the infinite expectations for health care availability and perfect results against the finite dollars which can be spent on health care programs. A properly functioning CON program is well positioned to deal with the intertwined issues of health care quality, access and cost.

4. What evidence is there that the CON system is a benefit to Michigan?

A number of independent studies have shown that the CON system in Michigan has led to lower costs in Michigan when compared to other nearby states. These studies have been conducted by the automobile companies and the Michigan Health and Hospital Association. Each study has shown that when compared with our neighboring Great Lake states, the health care costs per procedure and per capita are lower in Michigan.

In non-CON states, there tends to be a proliferation of medical technology, especially in private physician offices and privately owned hospitals and outpatient surgical facilities. The proliferation of this equipment and these sites leads to increased health care costs. See "The Cost Conundrum" in the June 1, 2009 issue of *The New Yorker*. In that article, Atur Gawande analyzed McAllen, Texas, which has one of the most expensive health care markets in the country. As noted in the article, Americans like to believe that, with most things, more is better. Research suggests where medicine is concerned, it may actually be worse.

A properly functioning CON program can help address the issues of quality, access and cost which will be need to be addressed as we continue to reform our health care delivery system.

5. Occasionally, the Legislature is asked to either introduce legislation on an issue in order to bypass the CON process or to reject standards adopted by the CON Commission. When the Legislature is presented with these types of requests, how do you recommend the Legislature respond?

When the Legislature is presented with legislation to bypass the CON process or to reject Standards adopted by the CON Commission, I recommend that the Legislature follow the example set by the Senate Health Policy Committee Chair to meet with representatives of the CON Commission to discuss the legislative proposals. Past experience has shown that open dialog between the members of the Legislature and the CON Commission is helpful to address the issues that are raised by proposed legislation.

6. Do you think there are areas of the health care delivery system that do not need to be regulated by the CON system? [If yes, what are some specific examples of areas that do not need to be regulated?]

I do not think there are any areas of the health care delivery system that do not need to be regulated by the CON system at this time. However, I think the Commission should be careful to regularly and carefully review what is now covered, for possible deletion. Further, I am not opposed to changes in the CON Standards that promote and assure the availability and accessibility of quality health care services at a reasonable cost in a reasonable geographic proximity for all people in Michigan. Part 222 of the Public Health Code enables the CON Commission, with input from the Legislature, to make such changes to the CON system and I support this process.

- 7. Do you think there are areas of the health care delivery system that need to be regulated by the CON system that are not currently regulated? [If yes, what are some specific examples?]**

At the present time, I am not aware of any areas of the health care delivery system that need to be regulated by the CON system that are not currently regulated. As I noted in my response to question #6, however, as technology changes or the health care delivery system itself undergoes changes, the CON statute enables revisions in the CON system by the Commission and under careful review and action by the Legislature.

- 8. Do you believe that special interests hold favor with the CON system? If so, as a member of the Commission, how would you suggest providing a better balance and distribution of services to meet those groups who are not as well represented but in great need of services?**

I do not believe that special interests hold favor within the CON system. In my extensive experience with the CON Commission, I know that anyone who has an interest can advance their interest by testifying before the Commission, speaking at public hearings, submitting written testimony, or contacting members of the CON Commission. These multiple avenues of input assure that the CON Commission receives the input and views of everyone, not just "special interests."

- 9. How difficult is it to balance the need and demand for health care services by people in the state with the growing costs to provide those services?**

It is very difficult to balance the need and demand for health care services by people in Michigan with the growing cost to provide those services. As I said earlier, one of the main issues for health care is resolving the inevitable conflict between infinite expectations and finite dollars. The CON Commission is in a unique position to help achieve this difficult balance because it is made up of eleven individuals from different backgrounds, political parties and regions who can, with the input and oversight of the Legislature, best address the delicate balance.

- 10. Do you feel Michigan's CON regulations are sufficient, too stringent, or too lenient?**

I feel the Michigan's CON regulations are presently sufficient, but they should be subject to review and revision by the Commission, under review by the Legislature, as called for in Part 222 in the Public Health Code. As technology changes, or as equipment becomes more costly or less costly, CON regulations may become too stringent or too lenient. At that time, the CON system enables the CON Commission with input from the public, to appropriately amend the CON Standards.

11. If an issue comes before the CON Commission that directly pertains to your current employer, how will you handle that situation?

If an issue comes before the CON Commission that directly pertains to my current employer, I would act in compliance with the advice of the Attorney General's Office, the guidelines established for the Commission by the State Ethics Board, which have been incorporated into the CON Commission Bylaws and appropriately recuse myself from any discussion or vote on the issue.

Respectfully submitted:

By: James B. Falahee, Jr. Date: 9-9-09
James B. Falahee, Jr.